



United States Government

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Re: Preferred Building Services, Inc. and Rafael Ortiz d/b/a Ortiz Janitorial Services,  
Joint Employers, Case 20-CA-149353

Dear Counsels:

This acknowledges the General Counsel's November 21, 2016 Motion to Strike Certain Portions of Respondents' Exceptions and Brief in Support of Exceptions and the Respondent's December 8, 2016 Opposition to this motion.

The Board's requirements for the filing of exceptions are described in Section 102.46(b)(1) of its Rules and Regulations. As noted therein, each exception shall set forth or contain 4 items: the specific question of procedure, fact, law or policy to which exception is taken; the identity of those parts of the judge's decision to which exception is taken; the precise citation of pages or portions of the record relied on; and a concise statement of the grounds of the exception. That section of the Rules also notes that when a separate brief is filed, as the Respondent has done here, the exceptions shall not contain any argument in support of the exceptions. Rather, such argument is to be confined to the brief, which pursuant to Section 102.46(h) of the Rules shall not exceed 50 pages or other limit set by the Board. In applying these Rules, the Board usually accepts exceptions that contain argument if the number of pages of argument in the exceptions, when added to the pages in the brief, does not cause the brief to total more than 50 pages, or other page limit set by the Board.

As noted above, the Respondent filed separate exceptions and brief in support of exceptions. The latter totaled exactly 50 pages in length. On reviewing the Respondent's exceptions, however, I note that the majority of the exceptions contain argument which when combined with the 50 pages of brief will exceed the 50 page limit. Exceptions 4 through 8 contain Respondent's conclusions, inferences and characterizations of the quality of the record testimony and evidence and explanations of how the portions of the record cited support the Respondent's position and/or fail to support the judge's conclusions. These types of statements in the exceptions constitute argument, which pursuant to the Rules should be confined to the brief.

Finally, it is noted that Exception 8 does not provide a concise statement for the grounds of the exception. Exception 8 is not concise, it is nearly 15 pages in length, and it contains argument, which would most certainly be applied to the brief in support of exceptions.

Based on the foregoing, Respondent has submitted more than 50 pages of argument. I therefore cannot transmit Respondent's exceptions and brief in support to the Board for consideration. The Board's general policy, however, is to provide the filing party an opportunity to resubmit the noncompliant documents in a form that comports with the Board's Rules. Accordingly, should Respondent desire to resubmit its exceptions and brief in support in a form that complies with the Board's Rules, **such resubmission is due in Washington, D.C. by the close of business of Monday, December 19. No extension of time will be granted for this resubmission, and Respondent is cautioned not to include exceptions which were not contained in its October 28, 2016 document.**

Accordingly, the General Counsel's Motion to Strike Certain Portions of Respondent's Exceptions and Brief in Support of Exceptions is **granted in part**.

Very truly yours,

/s/ Farah Z. Qureshi  
Associate Executive Secretary

cc: Parties